

BEFORE THE PUBLIC SERVICE COMMISSION OF WISCONSIN

Application of Oak Creek Water and Sewer Utility,
Milwaukee County, Wisconsin, for Authority to
Increase Water Rates

Docket No. 4310-WR-104

STIPULATION AND ORDER TO STAY PROCEEDINGS

Whereas, by Order dated September 25, 2012, the Public Service Commission of Wisconsin ("Commission" or "PSC") reopened the docket in the above-entitled matter to review any and all issues in the July 20, 2012 Final Decision; and

Whereas, at its open meeting on October 3, 2012, the Commission made a preliminary determination to modify two issues in the Final Decision, those being the allocation of costs of 12 inch water mains and the differential rate of return on investment to be allocated to wholesale customers in relation to retail customers; and

Whereas, a prehearing conference has been scheduled for December 10, 2012 to establish the schedule for further hearing before the Commission; and

Whereas, the above matter is also the subject of a Petition for Judicial Review filed by the City of Oak Creek ("Oak Creek"), in the Milwaukee County Circuit Court, bearing Case No. 12-CV-011459, requesting review of the Final Decision regarding the allocation of public fire protection costs; and

Whereas, the City of Franklin Municipal Water Utility ("Franklin") and the Village of Caledonia Water Utility ("Caledonia") are wholesale customers of Oak Creek, are wholesale intervenor parties in the PSC Docket No. 4310-WR-104 contested proceedings and are eligible to participate in the proceeding for judicial review and Oak

Creek will not object to Franklin and Caledonia being named parties in the aforementioned Circuit Court action; and

Whereas, the City of Waukesha (“Waukesha”) and its water utility have sought a Lake Michigan water supply source to provide safe and clean water to its residents, businesses and institutions and to comply with a U.S. Environmental Protection Agency order relating to the existing water source failure to meet requirements for such purpose; and

Whereas, Waukesha and Oak Creek have entered into a Letter of Intent (“LOI”) to exclusively negotiate the terms of an agreement for Oak Creek to supply water to Waukesha at wholesale; and

Whereas, the parties understand that the terms of a final agreement among Waukesha, Oak Creek and Franklin to provide clean water to Waukesha are to include agreement upon the issues of the allocation of public fire protection, 12 inch water main costs and the differential rate of return, and that Oak Creek will require some form of resolution of the issues currently pending before the Court and the Commission prior to furthering any agreement with Waukesha; and

Whereas, the addition of Waukesha as a wholesale customer of Oak Creek would also be financially beneficial in terms of water rates to existing customers, including Franklin and Caledonia; and

Whereas, Franklin, Caledonia and Oak Creek are desirous of working to focus upon and move the provision of clean water to Waukesha forward and to not otherwise expend the time and money required to further litigate the aforesaid issues before both the PSC and the Circuit Court.

Now, therefore, it is hereby stipulated and agreed, by and between Oak Creek, Caledonia and Franklin, as follows:

1. That the above-entitled action shall be stayed pending the earliest of: a) receipt of written notice from Waukesha to Oak Creek and/or Franklin that Waukesha will not pursue a source of water supply from the Oak Creek facility; b) the issuance of written notice from Oak Creek to Waukesha that Oak Creek will not continue water supply negotiations with Waukesha; c) the entry into a final agreement for the provision of water to Waukesha between and among Waukesha, Oak Creek and Franklin and the approval of such final agreement by all necessary governmental entities and agencies so as to make such final agreement binding and enforceable under the law, and the above-entitled action moot; or d) July 1, 2015.

2. If the above-entitled action is stayed, Oak Creek shall not apply for any water rate increase, including a Simplified Rate Case, until after July 1, 2015, excepting as may be required as a result of a *force majeure*, such as a war, riot, crime or act of God beyond the control of Oak Creek.

3. If a final agreement to provide water supply to Waukesha is signed prior to July 1, 2015, any application for a water rate increase made by Oak Creek after July 1, 2015, but before a physical connection to provide water supply to Waukesha has been made, shall be based upon the cost of service study method utilized and set forth in the July 20, 2012 PSC Final Decision. Franklin and Caledonia shall support the use of this cost of service study method in Oak Creek's application for a rate increase. After a physical connection to provide water supply to Waukesha has been made, water rates

shall be based upon the final agreement of the parties, with the approval of the Commission.

4. If the above-entitled action is stayed, the rates resulting from the July 20, 2012 PSC Final Decision which are currently in effect for all customers shall remain in effect subject to any change authorized upon application pursuant to the provisions of paragraphs 2. and 3. above.

5. The parties understand that Oak Creek will require any final agreement to provide water to Waukesha to include provision for the application of a two-step Cost of Service Study for all parties, including Franklin and Caledonia, at such time as there is a water connection to Waukesha.

6. All of the terms of the contemplated final agreement among the parties remain subject to negotiation.

[SIGNATURE PAGES FOLLOW]

Dated: 12/6/12

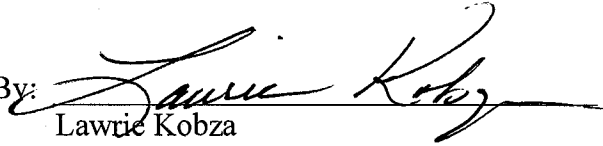
City of Franklin Board of Water
Commissioners, a Wisconsin Water Public
Utility, and City of Franklin, a Wisconsin
Municipal Corporation.

By: 

Jesse A. Wesolowski, City Attorney
State Bar No. 1003204

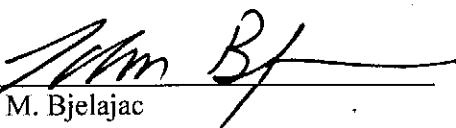
Dated: 12/4/12

Oak Creek Water & Sewer Utility, a
Wisconsin Municipal Public Water Utility and
City of Oak Creek, a Wisconsin Municipal
Corporation

By: 
Laurie Kobza
State Bar No. 1009282

Dated: 12/6/12

Village of Caledonia Water Utility

By: 
John M. Bjelajac
State Bar No. 1015325

ORDER

IT IS HEREBY ORDERED that all proceedings in the above-entitled matter be and the same are hereby stayed, pursuant to those terms which are set forth in the above Stipulation of the parties, which Stipulation is incorporated herein in its entirety.

The Effective Date of this Order shall be such date upon which a like order is signed by the Milwaukee County Circuit Court in Case No. 12-CV-011459 upon a stipulation of the parties to a stay of such action in that matter.

Dated at Madison, Wisconsin this ____ day of _____, 20__.

By the Commission:

Sandra J. Paske
Secretary to the Commission

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